

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 2029 of 2004

in

SPECIAL CIVIL APPLICATION No 14883 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA

and

HON'BLE MR.JUSTICE SHARAD D.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

CHUDASMA PRABHAT NATWARSINH

Versus

UNION OF INDIA

Appearance:

1. LETTERS PATENT APPEAL No. 2029 of 2004
MR HASIT H JOSHI for Appellant No.
..... for Respondent No. 1-3
-

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA

and

Date of decision: 10/01/2005

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

#. The appellant - original petitioner has challenged in this appeal the order dated 13.02.2004 passed by the learned single Judge of this court dismissing his special civil application no. 14883 of 2003 seeking compassionate appointment on the death of his father.

#. Deceased Natwarsinh - father of the appellant was serving with the respondents. Unfortunately, at a comparatively young age, he died on 15.11.1984 leaving behind him his widow and two minor children - the present appellant and his brother who were aged 3 and 2 respectively at that time. On attaining majority, the appellant applied for appointment on compassionate ground with the respondents - authorities but his application was turned down on the ground that he had applied after lapse of 17 years on death of this father. Aggrieved of this, this order was challenged by the appellant petitioner before the learned single Judge by way of writ petition. But the learned single Judge dismissed the same in limine at the admission stage relying on the judgment of the Apex Court in case of Umeshkumar Nagpal V/s State of Haryana and others reported in JT 1994(3) SC 525 on the ground that there was a delay of more than 15 years on the part of the petitioner to apply for appointment on compassionate ground.

#. It was submitted by Mr.Joshi for the appellant that at the time of death of his father, the appellant was hardly three years old. Therefore, till he becomes major, he could not have applied on that ground but the authority as well as the learned single Judge both committed serious error in denying the appointment to the appellant - petitioner on compassionate grounds. It was also submitted by Mr.Joshi for the appellant that the impugned order dated 29.10.2002 (Annexure 'A' to the main petition) was not a speaking order as required by the Board of Officers Rules. It is under the Board of Officers Rules, order should be detailed speaking order whereas in the instant case, the impugned order at Annexure 'A' to the main petition was not a speaking order as no detailed reasons were assigned.

We will deal with the second submission made by Mr.Joshi first. It is no doubt true that by a brief

order, the application of the appellant seeking appointment on compassionate ground was turned down by the authority but one reason was sufficient, therefore, it was not necessary to pass a lengthy order. It cannot be said to be a non-speaking order as tried to be submitted by Mr.Joshi. Hence, this submission of Mr.Joshi fails and is hereby rejected.

#. This brings us to the first submission made by Mr.Joshi that on the ground of delay of 15 or 17 years, his application should not have been turned down by the authority because he was minor at the time of death of his father. It is true that the appellant - petitioner can apply only after attaining majority but the question is whether the appellant can ask for such appointment by way of a matter of right or not and the same was answered by the Hon'ble Supreme Court in case of Umeshkumar (supra) which is relied upon by the learned single Judge for dismissing the petition filed by the appellant petitioner. In that view of the matter, we would not like to interfere with the order passed by the learned single Judge in this appeal.

#. In view of the above discussion, this appeal fails and is hereby dismissed.

(B.J.SHETHNA, J)

(SHARAD D DAVE, J)

srilatha